

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KATHYANN MCLENDON, :
: :
Plaintiff, : Case No.:
-against- :
: :
LVNV FUNDING, LLC and RESURGENT :
CAPITAL SERVICES, LP, :
: :
Defendants. :
: :
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**DEFENDANTS, LVNV FUNDING, LLC'S AND
RESURGENT CAPITAL SERVICES, L.P.'S, NOTICE OF REMOVAL**

Defendants, LVNV Funding, LLC (“LVNV”) and Resurgent Capital Services, LP (“Resurgent”) (together “Defendants”), file this Notice of Removal of this action to the United States District Court for the Eastern District of New York as follows:

1. On February 11, 2021, Plaintiff Kathyann McLendon (“Plaintiff”) filed his Summons and Verified Complaint in the Civil Court of the City of New York, County of Queens (Index. No.: 003908/2021).
2. This is a civil action based on Plaintiff’s contentions that Defendants purportedly violated, *inter alia*, the Fair Debt Collections Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).
3. Defendants desire to exercise their right to remove the county court action under 28 U.S.C. § 1441(a), which provides in pertinent part:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States

for the district and division embracing the place where such action is pending.

4. Given that the Complaint alleges that Defendants violated the FDCPA, this Court, pursuant to 28 U.S.C. § 1331, has subject matter jurisdiction over the allegations in the Complaint.

5. Thus, the Civil Court of the City of New York, County of Queens, New York action may be removed to this Court by Defendants in accordance with the provisions of 28 U.S.C. § 1441(a) because this is a civil action pending within the jurisdiction of the United States District Court for the Eastern District of New York and because the allegations by Plaintiff allege violations of the FDCPA.

6. Simply stated, removal is proper because this case involves a federal question alleged violation of the FDCPA. Therefore, the entire Complaint is removable pursuant to 28 U.S.C. §1441(a).

7. Removal is timely pursuant to 28 U.S.C. §1446(b) because Defendants have filed this Notice of Removal within 30 days of its receipt of Plaintiff's Complaint.

8. Pursuant to 28 U.S.C. §1446(a), copies of all process, pleadings, orders and other papers filed in this action and obtained by Defendants are attached hereto and marked as Exhibit A and incorporated herein by reference.

9. A civil cover sheet will be contemporaneously filed with this pleading.

10. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal has been sent to Plaintiff and will be filed with the clerk of the Civil Court of the City of New York, County of Queens. By serving a copy of this Notice of Removal upon Plaintiff's Counsel, Defendants are giving Plaintiff proper notice of this removal.

11. Venue is proper in this district under 28 U.S.C. §1441(a) because the State Court where the suit has been pending is located in this District.

12. Plaintiff demanded a trial by jury in State Court, as referred to in Plaintiff's Complaint.

13. Defendants reserve the right to amend or supplement this Notice of Removal and further reserves the right to raise all defenses or objections.

For the above reasons, Defendants request that this Court assume full jurisdiction over the proceeding as provided by law.

Date: March 10, 2021

J. ROBBIN LAW, PLLC

/s/ Jacquelyn A. DiCicco

Jacquelyn A. DiCicco, Esq.

Jonathan M. Robbin, Esq.

200 Business Park Drive, Suite 103

Armonk, NY 10504

P: 914-685-5016

E: jacquelyn.dicicco@jrobbinlaw.com

Attorneys for Defendants,

LVNV FUNDING, LLC and

RESURGENT CAPITAL SERVICES, LP

CERTIFICATE OF SERVICE

I, Jacquelyn A. DiCicco, hereby certify that on March 10, 2021, I caused the Notice of Removal to be submitted to the Clerk of the Court for the United States District Court for the Eastern District of New York, and a copy of the within pleading to be served via United States Mail, postage prepaid, upon:

Subhan Tariq, Esq.
Attorney for Plaintiff
34-18 Northern Blvd – Suite 2-25
Long Island City, NY 11101
Tel: 718-674-1245

/s/ Jacquelyn A. DiCicco
Jacquelyn A. DiCicco